

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

DECEMBER 18, 2012

+ + + + +

The Regular Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 1:00 p.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
NICOLE SORG, Vice-Chairperson  
JEFFREY HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commissioner (NPS)  
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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SHERRY GLAZER, ESQ.  
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

The transcript constitutes the  
minutes from the Public Meeting held on December  
18, 2012.

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## T-A-B-L-E O-F C-O-N-T-E-N-T-S

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P-R-O-C-E-E-D-I-N-G-S

(12:08 p.m.)

CHAIRMAN JORDAN: We will open now in Public Meeting in order to handle Case Number 18469. Mr. Moy, would you make the announcement?

MR. MOY: Yes, sir. Before the Board and its Public Meeting session would be a Board motion to reopen the Appeal Number of 18469 of Susan L. Lynch, to permit a Board member to participate.

For the record, the original appeal application is, or was, pursuant to 11 DCMR 3100 and 3101, from a decision by the Zoning Administrator to issue building permits, RW1200113, RW1207072, B1207074 and B1207074, approving the construction of two one-family detached dwellings in the R-1-B District at premises 2334 King Street, N.W., property located in Square 1394 Lot 24, and 2338 King Street, N.W., property located in Square 1394, Lot 23.

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1           The last time the Board convened  
2           this application or this appeal was on November  
3           27 of 2012.

4           CHAIRMAN JORDAN: Thank you. And  
5           at that meeting we voted two to one to dismiss  
6           it based upon the belief that the party knew  
7           or should have known and that that vote may not  
8           have been sufficient.

9           But another Board member, Ms. Sorg,  
10          who did not participate in that decision has  
11          subsequently reviewed the record, am I correct,  
12          and reviewed this matter?

13          VICE CHAIR SORG: Ah, yes. Thank  
14          you, Mr. Chairman. I have reviewed the record  
15          as well as the transcripts and videos of the  
16          two hearings that were held, or of the hearing  
17          and the earlier decision meeting that were held  
18          in regard to this case.

19          CHAIRMAN JORDAN: And so regarding  
20          this, it would be my motion to grant the motion  
21          to dismiss based upon the discussion had before  
22          that the appellant knew or should have known

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1 that the zoning approval was issued on May 30th.

2 That he had actual knowledge June  
3 1st based on upon the Zoning Administrator's  
4 affidavit, and at the very latest, June 6th,  
5 however, waited beyond that time to file.

6 That their basis of believing that  
7 they could not get the plans review in order  
8 to file was based upon their belief that they  
9 couldn't get the plans beforehand, and that was  
10 represented to us during the hearing that the  
11 permit processor allegedly, during a hearing  
12 it was reported to us, had told us that they  
13 had tried to get it but couldn't.

14 But when the affidavit was produced,  
15 the affidavit actually said, well, we basically  
16 thought that was the process, but they never  
17 said they actually tried to get the process.

18 So based upon that that's why I make  
19 my motion to dismiss this appeal. So that would  
20 be my motion.

21 VICE CHAIR SORG: I would, because  
22 other sitting Board members have shared their

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1 perspectives on this motion, I will quickly  
2 share mine based on my reading of the documents  
3 and previous hearings, but won't belabor the  
4 point.

5 In this matter I'm in agreement with  
6 the Chair's motions. Particularly compelling  
7 for me, with regard to my thoughts on this, were  
8 the two affidavits of the primary consultant  
9 and of the Zoning Administrator that were  
10 submitted subsequent to the hearing.

11 And also the discussion of the  
12 motion to dismiss during the hearing on October  
13 16th, and the clarifications that emerged for  
14 me regarding what was known when, specifically  
15 that counsel for the appellant knew of the  
16 Administrator's decision as well as the  
17 construction that was concurrent, and that  
18 counsel and the appellant had been, the term  
19 was "bird-dogging," I think, but had been  
20 invested in and monitoring this construction  
21 since February.

22 That being said, I do echo and

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1 appreciated Commissioner May's comments with  
2 regard to the level of transparency and  
3 necessity for ease of gaining information and  
4 public understanding of policies of agencies  
5 of the government. I think he mentioned that  
6 he had had those experiences, and I'm sure that  
7 we all have.

8 And so while I do agree with the  
9 motion to dismiss, I would also echo Mr. May's  
10 exigencies with regard to trying to increase  
11 transparency and have a broader and deeper  
12 public understanding of the policies and  
13 procedures of DCRA and other District agencies.

14 So those are my comments, thank you.

15 CHAIRMAN JORDAN: Anyone else?

16 Mr. May?

17 MR. MAY: Mr. Chairman, I'm not  
18 going to reiterate the points I made when we  
19 deliberated on this on November 27th.

20 Since Ms. Sorg has had the  
21 opportunity to review what was said then, I would  
22 only say that at this point I still believe that

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1 we should hear this case in full, because I do  
2 believe that the appeal was filed timely and  
3 that we should be erring on the side of  
4 opportunity for the general public to have  
5 access to the system and make their case and  
6 so on.

7 And I do believe that everybody had  
8 the best intent all the way around and that  
9 everyone was trying earnestly both on the  
10 applicant's side and DCRA. And I know DCRA  
11 takes these matters very seriously and tries  
12 to do their job to the best of their ability,  
13 it's just that even with that sometimes it's  
14 not as easy a system as we would like it to be.

15 So anyway I stand by my original  
16 position and ready to proceed to a vote.

17 CHAIRMAN JORDAN: So my motion was  
18 to dismiss, and Ms. Sorg, I take it as a second  
19 your concurrence to the motion.

20 Or do you want, Jeffrey --

21 MR. HINKLE: I'll second the  
22 motion.

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1 CHAIRMAN JORDAN: Motion made and  
2 seconded to dismiss the appeal. All those in  
3 favor signify by saying aye.

4 VICE CHAIR SORG: Aye.

5 MR. HINKLE: Aye.

6 CHAIRMAN JORDAN: Those opposed  
7 nay.

8 MR. MAY: Nay.

9 CHAIRMAN JORDAN: The motion  
10 carries. Mr. Moy?

11 MR. MOY: Yes, sir. Staff would  
12 record the vote as three to one, this on the  
13 motion of Chairman Jordan, seconded the motion,  
14 Mr. Jeffrey Hinkle. Ms. Sorg, Vice Chairperson  
15 Sorg also in support of the motion, Peter May  
16 opposed, and we have a seat vacant.

17 Your motion carries, Mr. Chairman.

18 CHAIRMAN JORDAN: Thank you.

19 Mr. Moy, we're going to, well, we're  
20 going to need a summary, we just haven't ordered  
21 in that matter. We want to call 18488.

22 MR. MOY: Yes, sir. The

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1 Application Number 18488 of Brendan and Anjulen  
2 Reilly is on the Expedited Review Calendar.

3 The caption reads, pursuant to 11  
4 DCMR 3104.1 for a special exception for an  
5 addition to an existing detached dwelling under  
6 section 223, not meeting the rear yard  
7 requirements under section 404, in the R-1-B  
8 District at premises 4764 Reservoir Road, N.W.,  
9 property located in Square 1371 Lot 34.

10 As the Board is well aware,  
11 Expedited Review Calendar items are zoning  
12 applications where the applicant waives the  
13 right to a public hearing, and applications are  
14 subject to either Board approval or removal from  
15 the calendar for rescheduling to a future date.

16 And the requirements are pursuant to sections  
17 3118.3, 3118.6, and 3118.7 in the Zoning  
18 Regulations.

19 So with that the Board must act on  
20 the merits of the case on the Calendar, pursuant  
21 to section 3118 requirements, which consists  
22 of Application Number 18488 for a special

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1 exception of relief.

2 CHAIRMAN JORDAN: And Mr. Moy, all  
3 the preconditions of the precedent has been  
4 filed, everything we need in this matter? I  
5 know I don't think we had an ANC report.

6 MR. MOY: That's correct, sir.  
7 Everything is in the record with the exception  
8 of an ANC letter.

9 CHAIRMAN JORDAN: And I noticed  
10 that there is no request by anyone to pull this  
11 from the expedited docket.

12 MR. MOY: That's correct, sir.

13 CHAIRMAN JORDAN: Okay. Does the  
14 Board have any issues or concern with 18488 for  
15 the relief request, the special exception relief  
16 requested?

17 Seeing none, I would move that we  
18 grant the requested relief.

19 VICE CHAIR SORG: Second.

20 CHAIRMAN JORDAN: Motion made and  
21 seconded. All those in favor signify by saying  
22 aye.

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1 (Chorus of ayes)

2 CHAIRMAN JORDAN: Those opposed  
3 nay. The motion carries. Mr. Moy?

4 MR. MOY: Staff would record the  
5 vote as four to zero. This on the motion of  
6 Chairman Jordan, seconded the motion, Vice  
7 Chairperson Sorg. Also in support of the  
8 motion, Mr. Peter May and Mr. Jeffrey Hinkle,  
9 and there is a Board vacancy.

10 Motion carries, Mr. Chairman.

11 CHAIRMAN JORDAN: Thank you, then  
12 we have a summary order in that matter?

13 MR. MOY: Yes, sir.

14 CHAIRMAN JORDAN: Then we will  
15 stand in recess until 1 o'clock. Well, wait  
16 a minute. Let me back up a second.

17 (Off microphone discussion)

18 CHAIRMAN JORDAN: We're just going  
19 to do these cases, thank you. No, we're going  
20 to continue through them. Thank you, Peter.

21 I don't know, is Mr. Turnbull coming  
22 over or Mr. Miller, do we know?

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1           MR. MOY: I believe Mr. Miller is  
2 coming. Mr. Turnbull, I would assume so because  
3 I have not received an absentee ballot and he's  
4 pretty --

5           CHAIRMAN JORDAN: Yes, so we'll be  
6 in recess until 1 o'clock. Thanks.

7           (Whereupon, the foregoing matter  
8 went off the record at 12:19 p.m. and went back  
9 on the record at 1:07 p.m.)

10          CHAIRMAN JORDAN: Let's go back  
11 into our Public Meeting session. We've already  
12 handled on today's docket, 18488 and 18469.  
13 So Mr. Moy, will you call 18431?

14          MR. MOY: Yes, sir. The next  
15 application for Board decision, Board action,  
16 is Application Number 18431. This is of The  
17 Field School, pursuant to 11 DCMR 3104.1, for  
18 a special exception to increase the private  
19 school enrollment cap from 320 to 400 students  
20 and to increase the faculty and staff cap from  
21 74 to 110 persons under section 206, in the R-1-A  
22 District, at premises 2301 Foxhall Road, N.W.

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1       Property located in Square 1341 Lots 856, 861,  
2       878, and 879.

3               As the Board will recall, on  
4       November 7th, 2012, the Board completed public  
5       testimony, closed the record, and scheduled this  
6       decision on December 18th, 2012.

7               The Board requested that the  
8       applicant file supplemental information which  
9       had a deadline of Friday, December 7th. The  
10      Board also allowed responses to that submittal  
11      from the applicant which had a deadline of  
12      December 12th, 2012.

13              Mr. Chairman, in your case folders  
14      are two filings. The applicant's filing of  
15      final conditions is identified as Exhibit 40,  
16      dated December 7th, 2012. The second filing  
17      there is a DDOT response to the applicant's  
18      submittal, dated December 11th, 2012, and that  
19      filing's identified as Exhibit 41.

20              With that the Board is to act on the  
21      merits of the request for a special exception  
22      under section 206. And that completes the staff

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1 briefing, Mr. Chairman.

2 CHAIRMAN JORDAN: Thank you, Mr.  
3 Moy. We previously had the hearing on this  
4 matter and this matter's been before us, and  
5 I think the Board then asked the parties, as  
6 Mr. Moy had requested, to submit a revised set  
7 of conditions for this property and for the  
8 relief.

9 In turn, I think the Board received  
10 new conditions which appears to be 38 conditions  
11 for the property. That has been submitted and,  
12 I believe, agreed to among the parties to the  
13 application.

14 This is a matter which I think that  
15 in my opinion that we can grant relief under  
16 section 206 for the private school use and under  
17 206 the relief requested for the parking.

18 I think that the applicant has  
19 shown, that is, met the conditions under section  
20 202 that the use, The Field School will operate  
21 with minimum impact on the surrounding  
22 neighborhood and has done so since 2002.

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1           It's not likely that they're going  
2           to have a high increase of existing noise and  
3           traffic congestion, but even so there is a  
4           mitigation plan and, therefore, shouldn't be  
5           objectionable to the neighborhood.

6           The school is putting in place or  
7           has offered a extensiveness of a TDM program  
8           to include the use of private bus, shuttle,  
9           carpooling, and in staggering schedules for the  
10          middle and high schools, and minimum student  
11          parking.

12          There's going to be ample parking  
13          space, but not less than what's required and  
14          should be able to accommodate the students and  
15          the teachers. I think presently they have 117  
16          parking spaces and the zoning regs require two  
17          spaces for every three teachers plus one space  
18          for every student.

19          So I believe that this application  
20          is ripe for us to grant the relief in conjunction  
21          with the 38 conditions which has been agreed  
22          upon by the parties. So that would be my thought

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1 and my motion.

2 So anyone else, any other Board  
3 member wants to weigh in on that? I made the  
4 motion but we can get it started that way and  
5 then we can discuss it.

6 VICE CHAIR SORG: I would second the  
7 motion.

8 CHAIRMAN JORDAN: Motion made and  
9 seconded. Now we're open for discussion if we  
10 could there. Anyone want to weigh in on this?

11 MR. MILLER: Mr. Chairman?

12 CHAIRMAN JORDAN: Yes.

13 MR. MILLER: I just wanted to say  
14 that I appreciate the effort that all the  
15 parties, including the applicant and the ANC  
16 and others, have made in response to your request  
17 that they work together to try to come up with  
18 a set of mutually agreeable conditions, and I'm  
19 prepared to vote in favor of this as well.

20 CHAIRMAN JORDAN: And I was remiss  
21 in not to say that. I mean they really had to  
22 really work to get these conditions on this

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1 property. With that any other readiness  
2 discussion? All those in favor of the motion  
3 signify by saying aye.

4 (Chorus of ayes)

5 CHAIRMAN JORDAN: Those opposed  
6 nay. The motion carries. Mr. Moy?

7 MR. MOY: The staff would record the  
8 vote as four to zero, this on the motion of  
9 Chairman Jordan to approve the request for  
10 special exception relief including the  
11 applicant's proffered 38 conditions. Second  
12 the motion, Vice Chairperson Sorg. Also in  
13 support of the motion, Mr. Robert Miller and  
14 Mr. Jeffrey Hinkle. We do have one Board seat  
15 that's vacant. The motion carries, Mr.  
16 Chairman.

17 CHAIRMAN JORDAN: And did we have  
18 an opposition party in this matter? Yes, we  
19 had opposition but it wasn't a party status  
20 opposition, was it? No, I don't believe it was.

21 Let's have a summary order. We do  
22 have a favorable ANC support. Yes, let's have

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1 a summary order for that.

2 MR. MOY: Yes, yes. That can be  
3 done.

4 CHAIRMAN JORDAN: Okay, we're  
5 ready. What about Mr. Turnbull? Is he --

6 MR. MOY: It turns out, Mr.  
7 Chairman, moments ago Mr. Turnbull submitted  
8 an absentee ballot.

9 (Off the record comments)

10 MR. MOY: The next application for  
11 Board action is Application Number 18463. This  
12 is of CAS, C-A-S, Riegler Real Estate  
13 Development, pursuant to 11 DCMR 3103.2. This  
14 is for a variance relief from the lot area  
15 requirements, under section 401, to allow the  
16 conversion of and addition to an existing  
17 building into an apartment house in the R-4  
18 District at premises 901 D Street, N.W.  
19 Property located in Square 938 Lot 809.

20 This Board will recall the applicant  
21 amended the application to withdraw the original  
22 requested variance relief from rear yard and

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1 court requirements. On November 11th, 2012,  
2 the Board completed public testimony, closed  
3 the record and scheduled its decision on  
4 December 18th.

5 The Board requested that the  
6 applicant file a list of final conditions, and  
7 that supplemental filing, Mr. Chairman, was  
8 submitted to the office on Monday, December the  
9 17th. And that document is identified in your  
10 case folders as Exhibit 40 -- no, not Exhibit  
11 -- hang on. Again, that filing from the  
12 applicant is identified as Exhibit 35 in your  
13 case folders. There's also a filing, Mr.  
14 Chairman, from ANC-6A and that document is  
15 identified as Exhibit 34.

16 With that the Board is to act on the  
17 merits of the variance relief from the lot area  
18 requirements. And that completes the staff's  
19 briefing, Mr. Chairman.

20 (Off microphone discussion)

21 CHAIRMAN JORDAN: Evidently I  
22 missed a filing here. I saw all of them but

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1 we got something late last night.

2 (Off microphone discussion)

3 CHAIRMAN JORDAN: All right, so  
4 let's go and begin 18463. The reason why we're  
5 having some side talk is that there's been a  
6 lot of late filings in this matter and the Board  
7 is trying to find out who's on first, which came  
8 in last and what position this particular  
9 application now sits in. We know that we've  
10 received some revised plans, and revised plans  
11 indicate that there's been a reduction of the  
12 two units.

13 And so that relief appears to be the  
14 same amount of units that the ANC was requesting.

15 That there had been an agreement for that  
16 evidently, or that the applicant has now come  
17 down in their request for relief to 23 units.

18 Overall, a total of 25 as opposed to 25 and  
19 27.

20 And yes, well, we gave them the time.

21 We gave them time to file it so they filed it  
22 allegedly timely, so we will then be sure to

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1 accept it in the record and give leave and accept  
2 that, because I'm not exactly certain now which  
3 came in, what came in timely or not.

4 But it's something that the Board  
5 had asked for and we're glad that it appears  
6 that there's been some compromising regarding  
7 the relief requested. And I believe the letter,  
8 we received the letter dated December 17th,  
9 which would have been yesterday, from the ANC  
10 which indicates that there was a compromise.  
11 I guess that's what it says. Is that what you're  
12 reading?

13 VICE CHAIR SORG: Mr. Chairman, my  
14 reading of the letter that we received and our  
15 Exhibit Number 34 from the ANC, basically  
16 reaffirms their position of a maximum of 25 units  
17 among the whole development, which would  
18 indicate that 23 units would be the subject of  
19 this application as opposed to, as you said,  
20 25 units being the subject of this application,  
21 27 total. That was followed by the --

22 CHAIRMAN JORDAN: It says,

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1 "accepted it as negotiated."

2 VICE CHAIR SORG: And indicates  
3 that they accept the negotiation subsequent to  
4 the hearing. And that was followed by our  
5 Exhibit Number 35, which gives the same  
6 indication and requests the application to be  
7 amended to include 23 units as opposed to 25,  
8 and as well to supplement the plans on the  
9 relevance sheets.

10 (Off the record comments)

11 CHAIRMAN JORDAN: Are these new  
12 conditions?

13 MR. MOY: Mr. Chairman, while  
14 there's a pause I was just reminded that there  
15 is a filing in the record from an individual,  
16 from a W. Mark Scott, dated December 12th, which  
17 was not, the record had been closed so it was  
18 not a document that the Board had requested.  
19 So I have that on hold unless I'm told otherwise.

20 CHAIRMAN JORDAN: So it's not in the  
21 record?

22 MR. MOY: That's correct.

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1 CHAIRMAN JORDAN: All right.

2 (Off the record comments)

3 CHAIRMAN JORDAN: Okay, then I  
4 offer that based upon the record the applicant  
5 has satisfied the burden of proof for the items  
6 that are necessary to establish the relief for,  
7 it's a variance request. I'm glad to see that  
8 there has been a work with the ANC and compromise  
9 in regards to find that.

10 I don't know if we, I think we better  
11 spot for the record the reason why the variance  
12 can be in place. I think, you know, the  
13 applicant has offered a five-year Zipcar, 11  
14 parking spots for residents only.

15 Note that it has reduced its request  
16 from this Board from 25 to 23 units to help  
17 mitigate any situations in the area. That the  
18 school building has sat there, has been there  
19 since 1903 and has historic significance, and  
20 that the historic requirements of HPRB regarding  
21 the internal structure and external structure  
22 of the building puts additional burdens on the

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1 use of the building.

2 Presently most of the area of the  
3 building is covered by concrete. The site has  
4 an underground storage tank which poses a  
5 particular situation for the development and  
6 use of this building. That on this site there's  
7 existing cell towers and smokestacks that again  
8 add to the problems with this building, and  
9 making other changes that would be necessary  
10 to fit within the zoning requirements presents  
11 marketing challenges based upon the evidence  
12 that's been submitted to the Board.

13 The applicant is also willing to  
14 purchase Bikeshare memberships for residents  
15 and to include 20 bike parking spaces on the  
16 location, and 11 residential parking spaces will  
17 be available through the Department of  
18 Transportation.

19 Based upon the evidence deduced, I  
20 would conclude that the applicant has met its  
21 burden for variance relief and that there exists  
22 a exceptional and extraordinary situation due

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1 to the building size and shape, the existence  
2 of preservation issues, the situation with the  
3 walls, maintaining the stairway. That's the  
4 other issue, maintaining the stairway as  
5 required by HPRB.

6 The fact that most of this lot is  
7 covered by concrete, the large and inoperable  
8 windows causing design and negative impact, and  
9 the site has an existing cell tower and  
10 smokestack, that in conjunction with the  
11 underground tank that's on the premises leads  
12 to exceptional situation and condition, thus  
13 creating a practical difficulty arising from  
14 the shape of the building, the extensive  
15 preservation of the interior and the removal  
16 of the tank and the issue of its marketability  
17 based upon any other changes that the detriment  
18 to the public good is mitigated by the kind of  
19 the TDM plan, the use of the Zipcars that's been  
20 offered, the purchasing of the Bikeshare  
21 memberships, the bike racks and the residential  
22 parking permits, and that granting relief would

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1 not cause substantial impairment to the intent  
2 and purpose of the zoning regulations, I would  
3 move that we grant the relief requested in  
4 condition with, the amended relief requested  
5 in condition with the following conditions.

6 That the applicant shall pay the  
7 cost for locating one car sharing space on the  
8 street adjacent to or near the project site for  
9 five years.

10 That the applicant shall pay the  
11 cost for installing a Capital Bikeshare station  
12 at a location agreed upon by the applicant and  
13 the ANC, provided that the Capital Bikeshare  
14 is able to find a suitable location, and that  
15 the applicant shall provide at least ten secure  
16 covered bicycle parking spaces on the site.  
17 That would be my motion.

18 VICE CHAIR SORG: Second.

19 CHAIRMAN JORDAN: Motion made and  
20 seconded. Any unreadiness? Any other  
21 discussion? All those in favor signify by  
22 saying aye.

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1 (Chorus of ayes)

2 CHAIRMAN JORDAN: Those opposed  
3 nay. The motion carries. Mr. Moy?

4 MR. MOY: Yes, sir. Before I give  
5 a final vote count we do have an absentee ballot  
6 from Michael Turnbull who participated on the  
7 application, and his absentee ballot is to  
8 approve the application with such conditions  
9 that the Board may impose.

10 So with that, that would give a vote  
11 of four to zero on Chairman Jordan's motion to  
12 approve as amended and the conditions as cited.

13 Second the motion, Vice Chairperson Sorg.  
14 Also in support Mr. Jeffrey Hinkle, and of course  
15 Michael Turnbull, and we do have a Board seat  
16 vacant. The motion carries, Mr. Chairman.

17 CHAIRMAN JORDAN: Let me ask, do you  
18 believe this is prime? Can we have a summary  
19 order here since we have agreement it appears?

20 MS. GLAZER: I would believe so --

21 CHAIRMAN JORDAN: Okay, then let's  
22 just --

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1 MS. GLAZER: -- if there's  
2 agreement. There's no adverse party here.

3 CHAIRMAN JORDAN: Yes. Then let's  
4 show a summary order in this. Okay, thank you.  
5 Then that will conclude that particular case.

6 Then let's -- additional business  
7 coming before the Board is that we need to look  
8 toward our next docket beginning in January,  
9 wow.

10 MR. MOY: Before you do that, if you  
11 don't mind, Mr. Chairman, if I may just for the  
12 record, there was a case in the morning which  
13 the Board had made a decision on, and I'd just  
14 like to have those entered into the record  
15 although we've already done that.

16 But that was Application Number  
17 18381 from the hearing session of application  
18 of Lawal Abdulganyu, where on November 27th,  
19 2012, the Board granted the applicant's request  
20 to postpone to February the 5th, 2013. So I  
21 just want that for the record.

22 CHAIRMAN JORDAN: Is that

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1 significant time for them to finally, because  
2 we're not going to keep rolling this thing.  
3 This has been on our docket, one, two, three,  
4 four, five previous times.

5 MR. MOY: Yes, sir. And the  
6 applicant is aware that this is his last shot.

7 CHAIRMAN JORDAN: That's why I  
8 asked, is February 5th enough time?

9 MR. MOY: Actually, in my  
10 discussion with him he wanted something sooner  
11 but I convinced him that he should use the time  
12 the Board is allowing him.

13 CHAIRMAN JORDAN: Well, okay, thank  
14 you. Then our next item of business is to deal  
15 with the Open Meetings Act for January.

16 So in accordance with Section 405(c)  
17 of the Open Meetings Act, D.C. Code 2575(c),  
18 I move that the Board of Zoning Adjustment hold  
19 closed meetings on the Monday of January 7th,  
20 January 14th and January 28th. This  
21 will begin at 4:00 p.m. for the purpose of  
22 obtaining legal advice from our counsel, and

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1 to deliberate upon but not voting on the cases  
2 scheduled to be publicly heard or decided by  
3 the Board on the day after each of these such  
4 closed meetings. Those cases are identified  
5 on the Board's public agenda for January 8th,  
6 January 15th and January 29th. Is there  
7 a second?

8 VICE CHAIR SORG: Second.

9 CHAIRMAN JORDAN: Motion made and  
10 seconded. Will the secretary please take a roll  
11 call for the vote of the motion?

12 MR. MOY: Yes, sir. When I call the  
13 member's name if you would respond with yes or  
14 no.

15 Vice Chairperson Sorg?

16 VICE CHAIR SORG: Yes.

17 MR. MOY: Chairman Jordan?

18 CHAIRMAN JORDAN: Yes.

19 MR. MOY: Mr. Hinkle?

20 MR. HINKLE: Yes.

21 MR. MOY: We have no other Board  
22 members participating today so the motion

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1 carries, Mr. Chairman.

2 CHAIRMAN JORDAN: As it appears  
3 that the motion has passed, I request that the  
4 Office of Zoning provide notice of these closed  
5 meetings in accordance with the Open Meeting  
6 law. Is there any other business that needs  
7 to come before us this afternoon?

8 MR. MOY: I believe you've covered  
9 everything for the day, Mr. Chairman, at least  
10 from the staff.

11 CHAIRMAN JORDAN: You believe?

12 MR. MOY: Sometimes.

13 CHAIRMAN JORDAN: With that does  
14 the Board have any other business that needs  
15 to come before us today? No? Then this meeting  
16 will be adjourned.

17 (Whereupon, the foregoing matter  
18 went off the record at 1:31 p.m.)  
19

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